

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
*Jose Zurita, et al.*

Plaintiff,

-against-

*Aspen and Greg Brier*

Defendants.  
-----X

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 11/30/07

07 Civ. 8063 (LAP)

INITIAL PRETRIAL  
CONFERENCE ORDER

LORETTA A. PRESKA, United States District Judge:

This action has been designated an electronic case and has been assigned to me for all purposes. By the date of the initial pretrial conference counsel for all parties are required to register as filing users in accordance with the Procedures for Electronic Case Filing.

A pretrial conference will be held in this case on December 20, 2007 at 9:00am in Courtroom 12A at the U.S. Courthouse, 500 Pearl Street, New York, New York 10007.

Immediately upon receipt of this Notice, you must send a letter to Defendant(s) and/or Counsel for Defendant(s) informing them of the conference date and enclosing a copy of this Notice, together with the attached individual Rules of Judge Preska. You must send a copy of your letter to the undersigned on the same day as you send it to your adversary.

If service has not been effected on all defendants or if a motion to dismiss is anticipated, the relevant party should inform chambers in detail by letter (with a copy to all parties) no later than one week before the scheduled conference date.

You should consult the enclosed Individual Rules of Judge Preska with respect to communications with chambers and related matters. Pro se parties are directed to consult with the Pro Se Office in Room 230 or at 212-805-0175 with respect to procedural matters.

SO ORDERED:

November 29, 2007

*Loretta A. Preska*  
LORETTA A. PRESKA, U.S.D.J.

4/06

**INDIVIDUAL PRACTICES OF JUDGE LORETTA A. PRESKA**  
**UNITED STATES COURTHOUSE**  
500 Pearl Street, Room 1320  
New York, NY 10007  
[www.nysd.uscourts.gov](http://www.nysd.uscourts.gov)

Unless otherwise ordered, matters before Judge Preska shall be conducted in accordance with the following practices:

**1. Communications with Chambers**

- A. Letters** Except as otherwise noted below, communications with chambers shall be by letter, with copies simultaneously delivered to all counsel. Copies of correspondence between counsel shall not be sent to the Court.
- B. Telephone Calls** In addition to paragraph 1D below, telephone calls to chambers are permitted. For matters other than docketing or scheduling, call chambers at 212-805-0240.
- C. Faxes** Faxes to chambers are permitted only if copies are also simultaneously faxed or delivered to all counsel. No document longer than three pages may be faxed without prior authorization. **IF FAXING, DO NOT SEND PAPER COPY BY HAND OR MAIL.** – the fax copy is sufficient. **The fax number is 212-805-7941.**
- D. Scheduling and Calendar Matters** For scheduling and calendar matters, call the courtroom Deputy, Megan, at **212-805-0116 (8:30 am-5:30 pm).**
- E. Requests for Adjournments or Extensions of Time** All requests for adjournments or extensions of time must state: 1) the original date; 2) the number of previous requests for adjournment or extension; 3) whether these previous requests were granted or denied; and 4) whether the adversary consents, and, if not, the reasons given by the adversary for refusing to consent. If the requested adjournment or extension affects any other scheduled dates, a proposed Revised Scheduling Order (reflecting only business days) must be attached. If the request is for an adjournment of a court appearance (absent an emergency), it shall be made at least 48 hours prior to the scheduled appearance.

## 2. Motions & Pleadings

**A. Pre-Motion Conference in Civil Cases** For discovery motions, follow Local Civil Rule 37.2. For motions other than discovery motions, a pre-motion conference with the court is required before making any motion, except:

- motions by incarcerated pro se litigants;
- applications for temporary restraining orders;
- applications for injunctions;
- motions to dismiss in lieu of answer;
- motions to remand;
- motions for reargument;
- motions described in Federal Rule of Appellate Procedure 4(a)(4)(A);
- applications for attorneys' fees;
- motions for reduction of sentences;
- objections to Magistrate Judge's ruling;
- petitions to compel arbitration or to confirm or modify awards;
- motions brought on by order to show cause;
- motion for admission pro hac vice; and
- motion pursuant to Section 21D(a)(3)(A)(i) of the Securities Exchange Act of 1934 to consolidate and for appointment of lead counsel.

To arrange a pre-motion conference, the moving party shall submit a letter not to exceed three pages in length setting forth the basis for the anticipated motion.

**B. Courtesy Copies** Courtesy copies of all pleadings (including the Complaint), motions, memoranda of law, etc., shall be clearly marked as courtesy copies and submitted to chambers as soon as practicable after filing. **Courtesy copies shall be submitted to chambers for both ECF and non-ECF designated cases.**

**C. Memoranda of Law** Unless prior permission has been granted, memoranda of law in support of and in opposition to motions are limited to 20 pages, and reply memoranda are limited to 10 pages. Memoranda of 10 pages or more shall contain a table of contents. Memoranda shall be in 12-point type, both text and footnotes.

**D. Filing of Motion Papers** Motion papers shall be filed promptly after service.

**E. Oral Arguments on Motions** Parties may request oral argument by letter at the time their moving, opposing, or reply papers are filed. The court will determine whether argument will be heard and, if so, will advise counsel of the argument date.

### 3. Pretrial Procedures

**A. Joint Pretrial Orders in Civil Cases** Unless otherwise ordered by the Court, within 30 days from the date for the completion of discovery in a civil case, the parties shall submit to the court for its approval a joint pretrial order, which shall include the following:

- the full caption of the action;
- the names, addresses (including firm names), and telephone and fax numbers of trial counsel;
- a brief statement by plaintiff as to the basis of subject matter jurisdiction, and a brief statement by each party as to the presence or absence of subject matter jurisdiction. Such statements shall include citations to all statutes relied on and relevant facts as to citizenship and jurisdictional amount;
- a brief summary by each party of the claims and defenses that party has asserted which remain to be tried, without recital of evidentiary matter but including citations to all statutes relied upon. Such summaries shall identify all claims and defenses previously asserted which are not to be tried;
- a statement by each party as to whether the case is to be tried with or without a jury, and the number of trial days needed;
- a statement as to whether all parties have consented to trial of the case by a magistrate judge (without identifying which parties have or have not so consented);
- any stipulations or statements of fact or law which have been agreed to by all parties;
- a statement by each party as to the witnesses whose testimony is to be offered in its case in chief, indicating whether such witnesses will testify in person or by deposition;
- a designation by each party of deposition testimony to be offered in its case in chief, with any cross-designations and objections by any other party; and
- a list by each party of exhibits to be offered in its case in chief, with one star indicating exhibits to which no party objects on grounds of authenticity, and two stars indicating exhibits to which no party objects on any ground.

**B. Filings Prior to Trial in Civil Cases** Unless otherwise ordered by the Court, each party shall file, 15 days before the date of commencement of trial if such a date has been fixed, or 30 days after the filing of the final pretrial order if no trial date has been fixed:

- in jury cases, requests to charge and proposed voir dire questions. When feasible, proposed jury charges also should be submitted electronically to the law clerk;

- in non-jury cases, a statement of the elements of each claim or defense involving such party, together with a summary of the facts relied upon to establish each element;
- in all cases, motions addressing any evidentiary or other issues should be resolved in limine; and
- in any case where such party believes it would be useful, a pretrial memorandum.

LAPRACTICES